

Statutes Related to Hate Crimes and Terrorism

(Note: In some instances below, descriptions of the statutes are not verbatim from the United State Code (USC).)

Hate Crimes-Related

18 USC § 249

Matthew Shepard James Byrd Hate Crimes Prevention Act (enacted 2009)

The Department of Justice and U.S. Attorney's Office can prosecute individuals who cause (or attempt to cause) bodily injury with a weapon wherein the offender is motivated by specific perceived characteristics of the victim. Perceived characteristics include: race, color, religion, national origin, ethnicity, disability, gender, sexual orientation, and/or gender identity. The statute prohibits the willful causing of bodily injury to any person or, through use of fire, a firearm, a dangerous weapon, or explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived race, color, religion, or national origin of any person. The statute applies to gender, sexual orientation, gender identity, or disability if the crime was in or affecting interstate commerce.

(Important note: There must be a true threat to cause or attempt to cause injury. A "true threat" is a serious communication of an intent to commit an act of unlawful violence against a particular individual or group of individuals. True threat does not include jokes, inelegant expressions of anger, and/or political hyperbole.)

A conviction carries a statutory maximum of 10 years in prison; if death results, or if the defendant's actions include aggravating factors such as kidnapping, sexual abuse, or death resulting from the offense, the offense may be punishable by imprisonment for any term of years or for life.

Terrorism-Related Statutes

18 USC § 175

Prohibitions with Respect to Biological Weapons

This section applies to whoever knowingly develops, produces, stockpiles, transfers, acquires, retains, or possesses any biological agent, toxin, or delivery system for use as a weapon, or knowingly assists a foreign state or any organization to do so, or attempts, threatens, or conspires to do the same. There is extraterritorial Federal jurisdiction over an offense under this section committed by or against a national of the United States. *An additional offense may be applicable to individuals who knowingly possesses any biological agent, toxin, or delivery system of a type or in a quantity that, under the circumstances, is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose. In this subsection, the terms "biological agent" and "toxin" do not encompass any biological agent or toxin that is in its naturally occurring environment, if the biological agent or toxin has not been cultivated, collected, or otherwise extracted from its natural source.

A person convicted of violating this statute shall be fined or imprisoned for life or any term of years, or both. For the additional offense*, individuals shall be fined and/or imprisoned not more than 10 years.

18 USC § 1992

Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air

(a) This section applies to whoever, in a circumstance described in section (b), knowingly and without lawful authority or permission—

- (1) wrecks, derails, sets fire to, or disables railroad on-track equipment or a mass transportation vehicle;
- (2) places any biological agent or toxin, destructive substance, or destructive device in, upon, or near railroad on-track equipment or a mass transportation vehicle with intent to endanger the safety of any person, or with a reckless disregard for the safety of human life;

- (3) places or releases a hazardous material or a biological agent or toxin on or near any property described in subparagraph (A) or (B) of paragraph (4), with intent to endanger the safety of any person, or with reckless disregard for the safety of human life;
- (4) sets fire to, undermines, makes unworkable, unusable, or hazardous to work on or use, or places any biological agent or toxin, destructive substance, or destructive device in, upon, or near any—
 - (A) tunnel, bridge, viaduct, trestle, track, electromagnetic guideway, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of, or in support of the operation of, a railroad carrier, and with intent to, or knowing or having reason to know, such activity would likely, derail, disable, or wreck railroad on-track equipment; or
 - (B) garage, terminal, structure, track, electromagnetic guideway, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle, and with intent to, or knowing or having reason to know, such activity would likely, derail, disable, or wreck a mass transportation vehicle used, operated, or employed by a mass transportation provider;
- (5) removes an appurtenance from, damages, or otherwise impairs the operation of a railroad signal system or mass transportation signal or dispatching system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal;
- (6) with intent to endanger the safety of any person, or with a reckless disregard for the safety of human life, interferes with, disables, or incapacitates any dispatcher, driver, captain, locomotive engineer, railroad conductor, or other person while the person is employed in dispatching, operating, controlling, or maintaining railroad on-track equipment or a mass transportation vehicle;
- (7) commits an act, including the use of a dangerous weapon, with the intent to cause death or serious bodily injury to any person who is on property described in subparagraph (A) or (B) of paragraph (4);
- (8) surveils, photographs, videotapes, diagrams, or otherwise collects information with the intent to plan or assist in planning any of the acts described in paragraphs (1) through (6);
- (9) conveys false information, knowing the information to be false, concerning an attempt or alleged attempt to engage in a violation of this subsection; or
- (10) attempts, threatens, or conspires to engage in any violation of any of paragraphs (1) through (9).

- (b) Circumstances Required for Offense - A circumstance referred to in the subsection above is any of the following:
- (1) Any of the conduct required for the offense is, or, in the case of an attempt, threat, or conspiracy to engage in conduct, the conduct required for the completed offense would be, engaged in, on, against, or affecting a mass transportation provider, or a railroad carrier engaged in interstate or foreign commerce.
 - (2) Any person travels or communicates across a State line in order to commit the offense, or transports materials across a State line in aid of the commission of the offense.

A person convicted of violating this statute shall be fined or imprisoned not more than 20 years, or both, and if the offense results in the death of any person, shall be imprisoned for any term of years or for life, or subject to death, except in the case of a violation of paragraph (8), (9), or (10).

18 USC § 2332a Use/Attempted Use of a Weapon of Mass Destruction

Offense against a national of the United States or within the United States - This section applies to a person who, without lawful authority, uses, threatens, or attempts or conspires to use, a weapon of mass destruction—

- (1) against a national of the United States while such national is outside of the United States;
- (2) against any person or property within the United States, and
 - (A) the mail or any facility of interstate or foreign commerce is used in furtherance of the offense;
 - (B) such property is used in interstate or foreign commerce or in an activity that affects interstate or foreign commerce
 - (C) any perpetrator travels in or causes another to travel in interstate or foreign commerce in furtherance of the offense; or
 - (D) the offense, or the results of the offense, affect interstate or foreign commerce, or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce;

- (3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States; or
- (4) against any property within the United States that is owned, leased, or used by a foreign government.

Offense by national of the United States outside of the United States - This section applies to any national of the United States who, without lawful authority, uses, or threatens, attempts, or conspires to use, a weapon of mass destruction outside of the United States.

A person convicted of violating this statute shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

18 USC § 2332b Acts of Terrorism Transcending National Boundaries

Section 2332b of Title 18, U.S.C., effective April 24, 1996, was enacted as part of the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. 104-132, § 702, 110 Stat. 1214, 1291. Section 2332b is intended to reach violent international terrorist activity that takes place within the United States where at least a part of that activity also occurs outside the United States. The violent conduct can be targeted against persons or property within the United States. The statute covers such conduct when it violates either Federal or state law. It sets forth a wide spectrum of bases to assert Federal jurisdiction. It provides for consecutive punishment in addition to any other Federal offense that was committed. Subsection § 2332b(e) also gives the Attorney General (via the Federal Bureau of Investigation (FBI)) primary investigative authority for all "Federal crimes of terrorism" as that term is defined in § 2332b(f).

Whoever violates this section shall be punished: for a killing, or if death results to any person from any other conduct prohibited by this section, by death, or by imprisonment for any term of years or for life; for kidnapping, by imprisonment for any term of years or for life; for maiming, by imprisonment for not more than 35 years; for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than 30 years; for destroying or damaging any structure, conveyance, or other real or personal property, by imprisonment for not more than 25 years; for attempting or conspiring to commit an offense, for any term of years up to the maximum punishment that would have applied had the offense been completed; and for threatening to commit an offense under this section, by imprisonment for not more than 10 years.

18 USC § 2339A Providing material support to terrorists

The Antiterrorism and Effective Death Penalty Act of 1996 amended 18 U.S.C. § 2339A to expand its list of terrorist type offenses. See Pub. L. 104-132, § 323, 110 Stat. 1214, 1255. Section 2339A, originally enacted on September 13, 1994, is primarily a statute aimed at reaching those persons who provide material support to terrorists knowing that such support will be used to commit one of the offenses specified in the statute. (The offenses specified in the statute are: 18 U.S.C. §§ 32, 37, 81, 175, 351, 831, 842(m) or (n), 844(f) or (i), 956, 1114, 1116, 1203, 1361, 1362, 1363, 1366, 1751, 2155, 2156, 2280, 2281, 2332, 2332a, 2332b, or 2340A and 49 U.S.C. § 46502.) The section requires only that the supplier of the material support have knowledge of its intended use. Section 2339A, unlike the aiding and abetting statute (18 U.S.C. § 2), does not require that the supplier also have whatever specific intent the perpetrator of the actual terrorist act must have to commit one of the specified offenses. The 1996 amendment also eliminated former subsection 2339A(c) which had imposed unworkable investigative restrictions upon the statute's utilization.

A person convicted of violating this statute shall be fined and/or imprisoned for not more than 15 years, and, if the death of any person results, shall be imprisoned for any term of years or for life.

18 USC § 2339B Providing material support or resources to a designated foreign terrorist organization

This statute applies to whoever knowingly provides material support or resources to a foreign terrorist organization, or attempts or conspires to do so. To violate this statute, a person must have knowledge that the organization is a designated terrorist organization (as defined in subsection (g)(6)), that the organization has engaged or engages in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act), or that the organization has

engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989).

A person convicted of violating this statute shall be fined or imprisoned not more than 20 years, or both, and, if the death of any person results, shall be imprisoned for any term of years or for life.

18 USC § 2385 Advocating Overthrow of Government

This statute applies to an individual who knowingly or willfully advocates, abets, advises, or teaches the duty, necessity, desirability, or propriety of overthrowing or destroying the government of the United States or the government of any State, Territory, District or Possession thereof, or the government of any political subdivision therein, by force or violence, or by the assassination of any officer of any such government; or

Whoever, with intent to cause the overthrow or destruction of any such government, prints, publishes, edits, issues, circulates, sells, distributes, or publicly displays any written or printed matter advocating, advising, or teaching the duty, necessity, desirability, or propriety of overthrowing or destroying any government in the United States by force or violence, or attempts to do so; or

Whoever organizes or helps or attempts to organize any society, group, or assembly of persons who teach, advocate, or encourage the overthrow or destruction of any such government by force or violence; or becomes or is a member of, or affiliates with, any such society, group, or assembly of persons, knowing the purposes thereof—

As used in this section, the terms “organizes” and “organize”, with respect to any society, group, or assembly of persons, include the recruiting of new members, the forming of new units, and the regrouping or expansion of existing clubs, classes, and other units of such society, group, or assembly of persons.

A person convicted of violating this statute shall be fined or imprisoned not more than 20 years, or both, and shall be ineligible for employment by the United States or any department or agency thereof, for the five years next following his conviction.

Other Related Statutes

18 USC § 248 Freedom of Access to Clinic Entrances Act (FACE)

Section 248 makes it unlawful for a person to use force, the threat of force, or physical obstruction to intentionally injure or intimidate a person because he or she is or has been obtaining or providing reproductive health services. Section 248 also makes it unlawful for a person to use force, the threat of force, or physical obstruction to intentionally injure or intimidate a person because he or she is lawfully exercising the right of religious freedom at a place of worship. Finally, Section 248 makes it unlawful for a person to intentionally damage or destroy the property of a facility because it provides reproductive health services, or because it is a place of worship. Section 248 also prohibits anyone from attempting to commit any of the above.

The term “reproductive health care facility,” includes both facilities that provide abortions as well as facilities that provide alternative counseling.

In the absence of aggravating factors, a first offense under this statute is a misdemeanor punishable by six months imprisonment for a non-violent obstruction offense, and up to a year for an offense involving force or threats. A second offense (committed after conviction on a different FACE offense) is punishable by up to 18 months in prison for a non-violent obstruction offense and by up to three years in prison for an offense involving force or threats. If bodily injury results, then the penalty is increased to up to 10 years. If death results, the penalty may be up to life imprisonment.

18 USC § 245(b)(2) Violent Interference with Federally Protected Rights

Subsection (b)(2) of § 245 makes it unlawful to willfully injure, intimidate or interfere with any person --or to attempt to do so -- by force or threat of force, because of that other person's race, color, religion or national origin and because the person has been doing one of the following:

- (1) Enrolling in or attending public school or college;
- (2) Participating in or enjoying a service, privilege, program, facility or activity provided or administered by a state or local government;
- (3) Applying for or enjoying private or state employment;
- (4) Serving as a grand or petit juror in state court (or going to court in preparation to do so);
- (5) Traveling or using a facility of interstate commerce or common carrier; and/or
- (6) Patronizing a place of public accommodation or place of exhibition or entertainment, including hotels, motels, restaurants, lunchrooms, bars, gas stations, theaters, concert halls, sports arenas or stadiums.

This statute also prohibits willful interference, by force or threat of force, with a person because he/she is or was participating in, or aiding or encouraging other persons to participate in, any of the benefits or activities listed above -- or in any of the federal benefits (such as the right to vote or seek federal employment) listed in § 245(b)(1) of the statute -- without discrimination as to race, color, religion, or national origin.

A violation of the statute is a misdemeanor unless prosecutors prove one of the statutory aggravating factors such as a bodily injury, use of a dangerous weapon, kidnapping, aggravated sexual abuse, death resulting from the offense, or attempt to kill, in which case there are graduated penalties up to and including life in prison or death.

42 USC § 3631 Criminal Interference with Rights to Fair Housing

This statute makes it unlawful for an individual to use force or threaten to use force to injure, intimidate, or interfere with, or attempt to injure, intimidate, or interfere with, any person's housing rights because of that person's race, color, religion, sex, handicap, familial status or national origin. Among those housing rights enumerated in the statute are: 1) the sale, purchase, or rental of a dwelling, 2) the occupation of dwelling, 3) the financing of a dwelling, 4) contracting or negotiating for any of the rights enumerated above, and 5) applying for or participating in any service, organizations, or facility relating to the sale or rental of dwellings.

This statute also makes it unlawful to use force or threaten to use force to injure, intimidate, or interfere with any person who is assisting an individual or class of persons in the exercise of their housing rights.

A violation of the statute is a misdemeanor unless prosecutors prove one of the statutory aggravating factors such as a bodily injury, use of a dangerous weapon, kidnapping, aggravated sexual abuse, death resulting, or attempt to kill, in which case there are graduated penalties up to and including life in prison.

18 USC § 247 Damage to Religious Property, Church Arson Prevention Act

Section 247 prohibits intentionally defacing, damaging or destroying religious real property because of the religious nature of the property, so long as the crime is committed in or affects interstate or foreign commerce (ICC). The statute also prohibits anyone from intentionally obstructing or attempting to obstruct, by force or threat of force, a person in the enjoyment of that person's religious beliefs, where the crime is in or affecting ICC. Finally, the statute prohibits anyone from intentionally defacing, damaging or destroying any religious real property because of the race, color, or ethnic characteristics of any individual associated with the property, regardless of any connection to ICC. Section 247 also prohibits attempts to do any of the above.

A violation of the statute is a misdemeanor unless prosecutors prove one of the statutory aggravating factors such as a bodily injury, use of a dangerous weapon, kidnapping, aggravated sexual abuse, death resulting from the offense, or attempt to kill, in which case there are graduated penalties up to and including life in prison or death.

18 USC § 43**Force, Violence and Threats Involving Animal Enterprises**

This statute applies to whoever travels in interstate or foreign commerce, or uses or causes to be used the mail or any facility of interstate or foreign commerce—

- (1) for the purpose of damaging or interfering with the operations of an animal enterprise; and
- (2) in connection with such purpose—
 - (A) intentionally damages or causes the loss of any real or personal property (including animals or records) used by an animal enterprise, or any real or personal property of a person or entity having a connection to, relationship with, or transactions with an animal enterprise;
 - (B) intentionally places a person in reasonable fear of the death of, or serious bodily injury to that person, a member of the immediate family (as defined in section 115) of that person, or a spouse or intimate partner of that person by a course of conduct involving threats, acts of vandalism, property damage, criminal trespass, harassment, or intimidation; or
 - (C) conspires or attempts to do so.

The punishment for a violation of this statute or an attempt or conspiracy to violate the statute shall be:

- (1) a fine under this title or imprisonment not more than one year, or both, if the offense does not instill in another the reasonable fear of serious bodily injury or death and-
 - (A) the offense results in no economic damage or bodily injury; or
 - (B) the offense results in economic damage that does not exceed \$10,000;
- (2) a fine under this title or imprisonment for not more than five years, or both, if no bodily injury occurs and-
 - (A) the offense results in economic damage exceeding \$10,000 but not exceeding \$100,000; or
 - (B) the offense instills in another the reasonable fear of serious bodily injury or death;
- (3) a fine under this title or imprisonment for not more than 10 years, or both, if-
 - (A) the offense results in economic damage exceeding \$100,000; or
 - (B) the offense results in substantial bodily injury to another individual;
- (4) a fine under this title or imprisonment for not more than 20 years, or both, if-
 - (A) the offense results in serious bodily injury to another individual; or
 - (B) the offense results in economic damage exceeding \$1,000,000; and
- (5) imprisonment for life or for any terms of years, a fine under this title, or both, if the offense results in death of another individual.

18 USC § 875**Interstate Communications**

- (1) Whoever transmits in interstate or foreign commerce any communication containing any demand or request for a ransom or reward for the release of any kidnapped person, shall be fined under this title or imprisoned not more than twenty years, or both.
- (2) Whoever, with intent to extort from any person, firm, association, or corporation, any money or other thing of value, transmits in interstate or foreign commerce any communication containing any threat to kidnap any person or any threat to injure the person of another, shall be fined under this title or imprisoned not more than twenty years, or both.
- (3) Whoever transmits in interstate or foreign commerce any communication containing any threat to kidnap any person or any threat to injure the person of another, shall be fined under this title or imprisoned not more than five years, or both.
- (4) Whoever, with intent to extort from any person, firm, association, or corporation, any money or other thing of value, transmits in interstate or foreign commerce any communication containing any threat to injure the property or reputation of the addressee or of another or the reputation of a deceased person or any threat to accuse the addressee or any other person of a crime, shall be fined under this title or imprisoned not more than two years, or both.

See paragraph above for specific penalties.

18 USC § 1362 Communications lines, states or systems

This statute applies to whoever willfully or maliciously injures or destroys any of the works, property, or material of any radio, telegraph, telephone or cable, line, station, or system, or other means of communication, operated or controlled by the United States, or used or intended to be used for military or civil defense functions of the United States, whether constructed or in process of construction, or willfully or maliciously interferes in any way with the working or use of any such line, or system, or willfully or maliciously obstructs, hinders, or delays the transmission of any communication over any such line, or system, or attempts or conspires to do such an act.

A person convicted of violating this statute shall be fined or imprisoned not more than 10 years, or both.

18 USC § 1366 Destruction of an energy facility

- (1) Whoever knowingly and willfully damages or attempts or conspires to damage the property of an energy facility in an amount that in fact exceeds or would if the attempted offense had been completed, or if the object of the conspiracy had been achieved, have exceeded \$100,000, or damages or attempts or conspires to damage the property of an energy facility in any amount and causes or attempts or conspires to cause a significant interruption or impairment of a function of an energy facility, shall be punishable by a fine under this title or imprisonment for not more than 20 years, or both.
- (2) Whoever knowingly and willfully damages or attempts to damage the property of an energy facility in an amount that in fact exceeds or would if the attempted offense had been completed have exceeded \$5,000 shall be punishable by a fine under this title, or imprisonment for not more than five years, or both.
- (3) For purposes of this section, the term "energy facility" means a facility that is involved in the production, storage, transmission, or distribution of electricity, fuel, or another form or source of energy, or research, development, or demonstration facilities relating thereto, regardless of whether such facility is still under construction or is otherwise not functioning, except a facility subject to the jurisdiction, administration, or in the custody of the Nuclear Regulatory Commission or an interstate gas pipeline facility as defined in section 60101 of title 49.
- (4) Whoever is convicted of a violation of subsection (1) or (2) that has resulted in the death of any person shall be subject to imprisonment for any term of years or life.

See paragraph above for specific penalties.

18 USC § 1857 Fences destroyed, livestock entering

Whoever knowingly and unlawfully breaks, opens, or destroys any gate, fence, hedge, or wall inclosing any lands of the United States reserved or purchased for any public use; or whoever drives any cattle, horses, hogs, or other livestock upon any such lands for the purposes of destroying the grass or trees on said lands, or where they may destroy the said grass or trees; or whoever knowingly permits his cattle, horses, hogs, or other livestock to enter through any such inclosure upon any such lands of the United States, where such cattle, horses, hogs, or other livestock may or can destroy the grass or trees or other property of the United States on the said lands.

A person convicted of violating this statute shall be fined or imprisoned not more than one year, or both. This section shall not apply to unreserved public lands.